

**U.S. Army Corps of Engineers - Charleston District
Checklist for 2002 Nationwide Permit Review
Nationwide Permit 40**

**Agricultural Activities
(404)**

SAC #: _____

Applicant Name: _____

Waterway/Location: _____

Project Name: _____

1. Is the proposal for the discharge of dredged or fill material into non-tidal waters of the U.S., excluding non-tidal wetlands adjacent to tidal waters, for improving agricultural production and/or the construction of building pads for farm buildings?

☐ Yes ☐ No
2. If the discharge is proposed in the 100-year floodplain, is permanent above-grade fill proposed below the headwaters, or in the floodway above the headwaters?

☐ Yes ☐ No ☐ NA
3. For both USDA program participants and non-USDA program participants, if the discharge is proposed in other waters of the U.S., is it limited to the relocation of less than 300-linear feet of existing serviceable drainage ditches constructed in non-tidal streams?

☐ Yes ☐ No ☐ NA
4. For both USDA program participants and non-USDA program participants, if the discharge is proposed in other waters of the U.S., is it limited to the relocation of less than 300-linear feet of existing serviceable drainage ditches constructed in intermittent non-tidal streams?

☐ Yes ☐ No* ☐ NA
5. Is the discharge proposed in a designated critical resource water or its adjacent wetlands?

☐ Yes¹ ☐ No
6. For both USDA program participants and non-USDA program participants, if the discharge is proposed for the construction of building pads, is the discharge only proposed in wetlands that were in agricultural production prior to December 23, 1985 (i.e. farmed wetlands)?

☐ Yes* ☐ No ☐ NA

7. For both USDA program participants and non-USDA program participants, if the discharge is proposed for the construction of building pads, does the discharge cause the loss of greater than 1/2 acre of **farmed wetlands**?
- ☐ Yes ☐ No* ☐ NA
8. For discharges into non-tidal wetlands to improve agricultural production, is the permittee a USDA program participant?
- ☐ Yes² ☐ No
9. If the permittee is a USDA program participant, has the permittee obtained a categorical minimal effects exemption, minimal effects exemption, or mitigation exemption from NRCS in accordance with the provisions of the Food Security Act of 1985, as amended (16 U.S.C. 3801 et seq.)?
- ☐ Yes ☐ No ☐ NA
10. If the permittee is a USDA program participant, does the permittee have a NRCS certified wetland delineation?
- ☐ Yes ☐ No ☐ NA
11. If the permittee is a USDA program participant and if required by NRCS, has the permittee implemented an NRCS-approved compensatory mitigation plan that fully offsets wetland losses?
- ☐ Yes ☐ No ☐ NA
12. If the permittee is a USDA program participant, does the discharge result in the loss of greater than 1/2 acre of non-tidal wetland on a farm tract³?
- ☐ Yes ☐ No ☐ NA
13. If the permittee is a non-USDA program participant, does the discharge result in the loss of greater than 1/10 acre of non-tidal wetland on a farm tract³?
- ☐ Yes* ☐ No ☐ NA
14. If the permittee is a non-USDA program participant, does the discharge cause the loss of greater than 1/2 acre of non-tidal wetland?
- ☐ Yes ☐ No* ☐ NA
15. If the permittee is a non-USDA program participant, have they included a compensatory mitigation proposal to offset losses of waters of the U.S. in their preconstruction notification?
- ☐ Yes ☐ No ☐ NA
16. Is the discharge for a single and complete project?
- ☐ Yes ☐ No

17. If the project site was used for agricultural purposes, and the farm owner/operator used NWP 40 to authorize activities in waters of the U.S. to increase production or construct farm buildings, is the current landowner planning to use NWP 39 for any activity in waters of the U.S.?

☐ Yes⁴ ☐ No ☐ NA

18. Are all of the applicable NWP General and Regional Conditions satisfied, including mitigation (GC #19), endangered species, and cultural resources, and if any Federally listed species and/or designated critical habitat occurs in the action area, have you made an effect determination and properly documented it in the administrative record?

☐ Yes ☐ No

19. Does the discharge cause the loss of greater than 300 linear feet of streambed?

☐ Yes ☐ No

TO QUALIFY FOR THE NWP, UNLESS OTHERWISE NOTED, EVERY NUMBERED ITEM MUST HAVE A CHECKED BOX.

* - REQUIRES A PRE-CONSTRUCTION NOTIFICATION (PCN) TO THE DISTRICT ENGINEER.

NOTE: THE PCN MUST ALSO INCLUDE A DELINEATION OF AFFECTED SPECIAL AQUATIC SITES, INCLUDING VEGETATED WETLANDS, VEGETATED SHALLOWS (submerged aquatic vegetation, seagrass beds) AND RIFFLE POOL COMPLEXES.

¹ - Discharges of dredged or fill material into waters of the U.S. may be authorized by this NWP in National Wild and Scenic Rivers if the activity complies with NWP General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with NWP General Condition 11, and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service has concurred in a determination of compliance with this condition.

² - Requires the permittee to submit a report within 30 days of the completion of work, to the District Engineer that contains the following information: (1) The name, address, and telephone number of the permittee; (2) The location of the work; (3) A description of the work; (4) The type and acreage of the loss of waters of the U.S.; and (5) The type and acreage of any compensatory mitigation.

³ - The term "farm tract" refers to a parcel of land identified by the Farm Service Agency. The Corps shall bear the responsibility for identifying other waters of the U.S. on a farm tract.

⁴ - The combined acreage loss authorized under NWPs 39 and 40 cannot exceed 1/2 acre.